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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,608 ¹	06/21/2000	Valeria Palestini	3572-18	7300

23117 7590 10/14/2003
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EXAMINER	
HESS, DANIEL A	
ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/598,608

Applicant(s)

PALESTINI ET AL.

Examiner

Daniel A Hess

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18, 22 and 24-60 is/are allowed.
- 6) ☒ Claim(s) 19, 20 and 23 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Remarks

1. Acknowledgement is made of amendment dated 7/14/2003, which has been placed in the file of record, and to which this action is a reply. This action is made non-final, as the examiner has essentially taken a 'fresh look' at the case and has withdrawn many rejections and made a few others. The examiner respectfully apologizes for any delays in the prosecution.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19, 20 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsumoto (JP8202806, of record). Matsumoto teaches a scanner having all of the elements and means as recited in claims 19, 20 and 23. For example, Matsumoto teaches the following:

Re claim 19: See abstract. A bar code reader has an illumination pattern in one color (red). Luminous information is shown upon the barcode based on the read result; specifically, if and when there is a successful scan, luminous information, namely green light, is aimed at the

bar code. There is discrimination, i.e. if there has been a completed read, green light will be shone on the code, otherwise it will not be shone on the barcode.

Re claim 20: There is a positive result (already completed the read) and a negative result (has not completed the read yet).

Re claim 23: Differentiation in Matsumoto is achieved by hue, or in other words, color.

Allowable Subject Matter

4. Claims 1-18, 22 and 24-60 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: Matsumoto shows aiming different colors at the barcode, but Matsumoto fails to teach aiming different shapes and different-sized figures at the barcode. Color and shape cannot be said to be equivalent because shape can potentially carry symbols or words that have different meanings.

For the sake of examining the case, in instances where the language indicates that a figure is displayed at the barcode that is distinguished from the acquisition light source, it is understood that term 'figure' indicates differentiation based on shape.

Kahn (US 6,158,662) teaches effectively aiming a symbol 102 at a barcode (see figure 2c); however this is done for a different purpose, and the motivation for replacing the colors of Matsumoto with shapes is not obvious.

5. Claim 21 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and

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any intervening claims. Matsumoto has only two states, red and green, and thus cannot indicate three outcomes.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A Hess whose telephone number is (703) 305-3841. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703) 305-3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DH

Daniel A Hess
Examiner
Art Unit 2876



KARL D. FRECH
PRIMARY EXAMINER